

Application No. 09/815,529

Docket No. 22-0119

**REMARKS**

Claims 1-16 were submitted for examination and, in the aforementioned Office action, all of the claims were rejected, on various grounds. By this amendment, the claims have been amended to define the invention more clearly over the cited art.

Claims 2, 8-10 and 13 have been cancelled, leaving claims 1, 3-7, 11, 12 and 14-16 in the application. Reconsideration and reexamination of the application are respectfully requested, in light of the following remarks.

In sections 1-3 of the action, claims 1, 2, 8 and 10 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of US Pat. No. 6,430,418 in view of Vembu (US 6,259,928). Further, in section 4 of the action claims 3 and 11 were also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over certain claims of US Pat. No. 6,430,418 in view of Vembu and Dahlman (US 6,173,162). Accompanying this amendment is a terminal disclaimer with respect to Pat. No. 6,430,418. Accordingly, withdrawal of the double patenting rejections is respectfully requested.

In sections 5 and 6 of the action, claims 11-13 were rejected under 35 U.S.C. §112, second paragraph, because the final words of claim 11 were obviously incomplete. Claim 11 has now been substantially amended to clarify the invention over the prior art and, as amended, is not believed to be subject to indefiniteness under 35 U.S.C. §112, second paragraph. In particular, claim 11 now recites first, second and third processors, the functions of each being recited in some detail.

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In sections 7 and 8 of the action, claims 1, 2, 5, 6, 8-10 and 15 are said to be rejected under 35 U.S.C. §102(e) as unpatentable over Vembu. In the comments in section 8 of the action, claims 5 and 14 are also mentioned, so it is assumed that the Examiner also intended to reject claim 14 on the same basis as the other claims enumerated in section 7 of the action.

Vembu discloses a system and method for optimized power control in which transmit power is controlled as a result of comparison of receive signal power with a threshold, in and which the power threshold is adjusted as a result of measurement of the error rate in the received signals. In the present invention, however, not only is the comparison threshold adjusted, but in accordance with one aspect of the invention error determinations are made based on the type of data signals transmitted and received, and appropriate adjustments are made to a power offset in the transmitter. Vembu contains no suggestion of this feature. Also, the present invention is preferably implemented in the context of a satellite communications network that includes a network control center, one function of which is to receive from a satellite reports of the data errors and to generate power threshold adjustments to transmit back to the satellite, and power offset adjustments to transmit back to the transmitter, by way of the satellite. Vembu is principally concerned with terrestrial communications and does not suggest this arrangement.

Of the claims rejected under Section 102, claims 2 and 8-10 have been cancelled. Claim 1 has been amended to recite additional steps and features defining more specifically where the various steps are performed and including the steps performed by the network control center. Since the Examiner did not find claim 13 to be

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unpatentable over prior art, it is believed that claim 1 as now amended should also be patentable over the cited art, and that dependent claims 5 and 6 should be allowable for the same reasons. Claim 14, which originally depended from claim 8, now depends from claim 11, which has been substantially amended. In any event, claim 11 was not rejected under Section 102, so Applicant believes that simply by changing the dependency of claim 14, the possible rejection of that claim under Section 102 has been obviated.

In sections 9 and 10 of the action, claims 3 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vembu in view of Dahlman. The latter patent is relied on to show a teaching of an uplink signal having a power formed by a reference power combined with an offset power. Claims 3 and 11, as amended, recite the use of different power offsets for different respective data types. By way of contrast, Dahlman discloses the use of different power offsets in transmissions over different physical channels. (See, for example, the abstract and claim 1.) Applicant respectfully urges the position that the teachings of Dahlman and Vembu, even if they could be usefully combined, would not result in the present invention as defined by claims 3 and 11.

In section 11 of the action, claims 4 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vembu in view of Dahlman and further in view of Lieshout et al. (US Patent Appln. No. 2002/0094833). The latter patent is relied on to show the use of a look-up table for storing power offsets. Applicant acknowledges that a look-up table is a common software technique used in a variety of contexts, including communication systems. Applicant maintains, however, that claims 4 and 12 should be patentable with the claims from which they depend.

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In section 12 of the action, claims 7 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vembu in view of Boyden (US 6,430,394). The latter patent is relied on for the teaching of a synchronization signal, which is used in a comparison operation. Applicant maintains that claims 7 and 16 should be patentable with the claims from which they depend.

In section 13 of the action, claim 13 was also rejected under 35 U.S.C. §103(a), but claim 13 has now been cancelled.

In view of the foregoing, the application as amended above, including remaining claims 1, 3-7, 11, 12 and 14-16, is believed to be in condition for allowance and an action to this effect is respectfully requested.

Respectfully submitted,

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